IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7400 of 2007()

CC.436/2006 of J.M.F.C.-IV,KOZHIKODE
CRIME NO.177/04 OF NADAKAVU POLICE STATION.

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PETITIONER/ACCUSED NO.14

K.C.ANTONY,
KARIYATT HOUSE, PADIPPARA ROAD, PEECHI,
TRICHUR.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. STATION HOUSE OFFICER,
NADAKKAVU POLICE STATION.

BY P.P. SRI. S.U. NAZAR.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7400 OF 2007

Dated this the 28th day of November, 2007

ORDER

Application for anticipatory bail. The petitioner faces allegations in a crime registered as early as in 2004 under Secs.409 and 420 of the IPC. Investigation is complete. Final report has already been filed. Cognizance has been taken by the learned Magistrate. The matter is pending as C.C.No.436/06 before the learned Judicial Magistrate of the First Class-IV, Kozhikode. Consequent to the non-appearance of the petitioner, a warrant of arrest has been issued by the learned Magistrate against the petitioner. The petitioner finds such warrant of arrest issued by the learned Magistrate chasing him.

2. According to the petitioner, he is absolutely innocent. His absence earlier was not wilful or deliberate. He had not

received any notice or summons from the court. He was unaware of the pendency of the proceedings. The petitioner, in these circumstances, wants to surrender before the learned Magistrate and seek regular bail. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is, in these circumstances, that the petitioner has come to this Court for a direction to the learned Magistrate to release him on bail when he appears before the learned Magistrate.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider the petitioner's application for regular bail on merits, in accordance with law and expeditiously. No special or specific directions appear to be necessary. Every court must do the same. Sufficient general directions on this aspect have already been issued in the decision reported in **Alice George v. Deputy Superintendent of Police** (2003 (1) KLT 339).

4. In the result, this bail application is dismissed; but with the observation that if the petitioner surrenders before the

learned Magistrate and seeks bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously – on the date of surrender itself.

Sd/-
(R. BASANT, JUDGE)

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P.S. to Judge